APPENDIX A.

FACTS

Conception, Invention and Development of Singer 401 Machine

A member of Singer's Experimental Department, having previously commenced the development of a completely new household zigzag sewing machine, including a new zigzag mechanism, completed the design of such new machine and new mechanism on April 29, 1953 (Op. 14a). This was prior to the introduction into the market of any sewing machine incorporating a multiple cam mechanism (Op. 16a). This new machine, the 401, was to be Singer's star machine, the top of its line (Op. 21a). In 1959 it represented 45 per cent of the total dollar volume of Singer's entire household sewing machine business in the United States (Op. 21a). Singer spent several years in the development of the 401 machine and by June 1959 had invested $9,000,000 in it, including $4,700,000 for tooling (Op. 14a; Stipulation of Facts, Par. 112, R. 2423). For an understanding of the purpose, intent, motives and attitude of Singer in its various actions in this case, the single most important fact is that Singer so conceived, invented and developed the multiple cam zigzag mechanism which it embodied in its 401 sewing machine.

Singer's negotiations with Vigorelli and Gegauf, the alleged co-conspirators, are to be viewed in the light of the foregoing facts and the fact that such negotiations related almost exclusively, as far as the United States is concerned, to patents and patent applications which covered the basic feature of the multiple cam mechanism invented by Singer and embodied in its 401 machine (Stanford, R. 1263-1264; 401 cam mechanism, Dx. 106B);

namely, a series of rotary cams having a single retractable cam follower, shiftable relative to each other lengthwise of the common cam axis, in order to select a particular cam, for controlling the lateral movement of the needle.* That is the precise feature covered by Gegauf Patent No. 1 (Op. 10a).

The 401 multiple cam mechanism includes an ancillary feature, covered by the Singer United States Johnson patent, consisting of a supplemental follower which may be immobilized or engaged and used to take information from a second cam and combine it with information taken by the primary follower (401 cam mechanism, Dx. 106B; Dx. S-14, R. 2520-2551; Stanford, R. 1263-1267).

Conception, Invention and Development by Singer of Other Zigzag Machines

During the period of the development of the 401 machine, other zigzag machines were developed, manufactured and marketed by Singer. These included the 306 machine, a replaceable cam machine (Op. 14a-15a), and the 319 machine, a multiple cam zigzag sewing machine (Op. 15a). In 1956 the Singer 319 machine was to become Singer's most important machine in the United States (Op. 15a, 20a; Dx. S-24, R. 2584). Manufacture thereof in the United States, however, was discontinued when it was superseded, in June 1957, by the 401 machine (Op. 14a, 15a). The 319 machine continued to be the important machine manufactured and sold abroad,

* In October 1957, less than a month and a half prior to the acquisition of the Gegauf patent application, mention was first made of the fact that a divisional application could be carved out of Gegauf's original application. The circumstances under which at this late date discussions with respect to such possible divisional application arose, and Singer insisted that it receive the entire application, are set forth in the trial court's opinion (Op. 45a, 55a).

selling in 1957 at the rate of 65,000 machines per year (Op. 15a, 62a).

Singer-Vigorelli License Agreement

In September 1953 Vigorelli, an alleged co-conspirator, introduced into the United States a sewing machine with a multiple cam zigzag stitch mechanism which disclosed that Vigorelli almost certainly had anticipated the basic feature of the 401 multiple cam mechanism. In September 1954 Brother International Corporation introduced into the market a Japanese made sewing machine incorporating the multiple cam mechanism of Vigorelli and the Singer 401 machines. In April 1955 Singer learned that Vigorelli had introduced a modified form of its machine (Op. 16a-17a).

The introduction of the Vigorelli machine in September 1953 surprised and shocked Singer and stirred it into action. From that time on Singer continuously sought information as to the extent of Vigorelli or other patents relating to the type of cam mechanism contained in the Vigorelli and the 401 machines to determine whether any such patent could interfere with the manufacture and sale of the Singer machines any place in the world, including the United States. In the process, it sought information throughout the world to determine whether it could limit or destroy claims of patents or patent applications claiming multiple cam zigzag stitch mechanism which might interfere with Singer's machines (Op. 22a-24a, 27a-29a; Stipulation of Facts, Pars. 26, 27, R. 2381-2382; Dx. 4, R. 5171-5173; Dx. 6-9, R. 5182-5190; Dx. 19, R. 5207-5210; Dx. 21-26, R. 5212-5223).

In June 1955 Singer found and succeeded in acquiring a Harris patent, filed June 9, 1952, which did not claim but did disclose, prior to any known use or known patent

priority date, a plurality of rotary cams and a single cam follower for selecting and relating the needle to a particular cam (Op. 24a-25a). Singer hoped that this patent could be re-issued with claims covering a stack of cams with a single cam follower which would cover the Singer, Vigorelli and Brother machines, which would have a priority date earlier than that of Vigorelli in the United States and, depending upon foreign laws, a priority date earlier than Vigorelli in various foreign countries, including Italy (Op. 25a-26a). Singer believed that in any event, with the Harris patent and a re-issue application, Singer might either obtain claims or have claims rejected which would serve as a good indication that no one else could be awarded the claims. Singer knew that whatever the result might be, with the Harris patent in hand it was in a better position to bargain with Vigorelli (Op. 25a-26a). The result was that Singer did file a re-issue application and with the aid thereof did succeed in entering into the cross-license agreement of November 17, 1955 with Vigorelli (Op. 28a).

From the commencement of this action to and including the filing of its final brief the Government's position was adamant that Vigorelli was a co-conspirator. The Government now inferentially attacks the trial court for discussing at length the Singer-Vigorelli cross-license agreement and the facts surrounding its execution, erroneously stating that such discussion related to the "legality" of the agreement (J.S. 6, n. 5). The discussion in fact related to the conspiracy charge. The Government makes this misleading accusation notwithstanding the fact that it argued in its final brief to the trial court that:

> "The relationships and cross licensing agreements which bound Singer, Gegauf and Vigorelli each to the other, provided a fertile media for the subse-

> quent growth of a conspiracy which was aimed at eliminating competition caused by the importation of Japanese made multi-cam machines. * * * The parties in this case, however, were not satisfied to cross license each other and unblock the technology but were determined to go further and eliminate competition." (R. 6377)

Directing itself almost specifically to the above set forth contention of the Government, the Court said:

> "Thus concludes the background against which the license agreement was entered into by Singer with Vigorelli on November 17, 1955. It can hardly be seriously contended that the agreement was a preliminary step to effectuate a conspiratorial plan or an attempt to monopolize. In truth, Singer's back was against the wall in this matter and it was only thru swift and clever tactics that it was able to wrest some sort of victory out of what promised to be total defeat or at best a Pyrrhic victory." (Op. 28a)

The Government having tenaciously clung to the argument that Vigorelli was a conspirator, notwithstanding overwhelming evidence that its participation in such a conspiracy could not have been remotely possible, it seems a bit late for the Government to now indicate, before this Court, that the trial court should have spent less time in laying to rest the Government's contention.

Singer-Gegauf License Agreement

In the course of the negotiations with Vigorelli, Singer heard of a Gegauf patent covering a multi-cam mechanism, which, according to its advice, had been deposited by Gegauf in a small number of countries (Op. 27a, 32a). On October 20, 1955 Singer discovered that the Gegauf patent had been deposited in Switzerland on May 31, 1952 and at the same time it obtained a copy of the corresponding Italian patent, which enjoyed the same date. This date

was nine days earlier than that of the Harris re-issue application (Op. 32a). The fears aroused in Singer for the future of its machines by the discovery of the Vigorelli patent were sharpened by the discovery of the earlier Gegauf patent (Op. 28a).

Gegauf's Italian patent disclosed (1) a stack of cams and a single cam follower which by sliding lengthwise of the axis of the cams could engage any one of such cams and (2) a stack of cams with each cam having its own individual follower (Op. 32a). The first covered the Singer 401 mechanism and the second the Singer 319 mechanism (Op. 14a-15a). In January 1956 Singer, through its continued and extended search, learned that Gegauf had filed a United States application corresponding to the Gegauf Swiss application bearing date May 31, 1952. If the United States application had the same priority date as the Swiss application it would be nine days earlier than the priority date of Singer's Harris patent (Op. 32a). Singer thereupon embarked upon a strenuous campaign, the success of which was absolutely vital to it, to obtain a license under Gegauf's application and any patent to issue thereunder. This was given a strong impetus by advice received that the Harris re-issue claims were allowable (Op. 32a). Singer feared that an interference might be declared between the Harris re-issue application and the Gegauf United States application. Singer felt that because it had knowledge that Gegauf did not have, it was in a better bargaining position than Gegauf. It was most anxious to conclude an agreement, similar to the one it had with Vigorelli, before an interference proceeding would disclose to Gegauf its earlier priority date and accordingly its superior position (Op. 32a-33a). Singer desired to keep Gegauf in the dark as

long as possible and to disclose only what was absolutely necessary to accomplish Singer's plans. Singer, through its Swiss representative, made an arrangement for a conference with Gegauf to discuss "patent questions" (Op. 34a).

The conference was held. The result of the conference was that the Gegauf-Singer cross-license agreement of April 14, 1956 was executed (Op. 34a-36a). In this cross-license agreement Singer licensed only the Harris United States patent and corresponding patents. No mention was made of Singer's Perla or Johnson patent applications because Singer was not anxious to have Gegauf know of them (Dx. 31, R. 5235). By the agreement Gegauf licensed only Gegauf's Swiss patent and corresponding patents (Op. 36a, 38a).

The trial court found that the agreement constituted the entire agreement of the parties; that there was no agreement or understanding about how each would prosecute, license or otherwise restrict its ownership of any patents it might obtain or that eventually Singer would purchase the Gegauf patent (Op. 39a). The trial court further found that the undisputed facts support no conclusion other than that the underlying dominant purpose of the license agreement was to settle the conflict in priority between the Gegauf and Harris patents and to secure for Singer a license right under the earlier patent (which Singer knew would be Gegauf's) in order to free the marketing of Singer's 401 and 319 machines in various countries, particularly in the United States, where enforcement of the Gegauf patent might easily foreclose the market to Singer (Op. 39a-40a).

Singer obtained this agreement without once mentioning to Gegauf even the possibility of an ultimate purchase by Singer of Gegauf's application or any patent

issued thereon (Op. 39a). The first time that a desire on Singer's part to purchase such patent was expressed to Gegauf was in August 1956 at a conference in New York, four months after the execution of the license agreement (Op. 42a). It is indeed hard to conceive how the Government can argue that Gegauf, at the time of the execution of the license agreement, was in a conspiracy to vest its patents in Singer so that Singer could exclude competition in the United States, when at that time mention had not been made of a possibility of selling the patent to Singer. The Government at one time frankly acknowledged that the Gegauf cross-license agreement was not a part of the alleged conspiracy. It then proclaimed:

> "It was after the defendant had acquired royalty-free patent rights that it entered into the conspiracy alleged and attempted to monopolize by acquiring full title to the patents or patent applications under which it had already been licensed." (Plaintiff's Memorandum Relative to Defendant's Proposed Findings, R. 6195)

Singer-Gegauf Assignment

As stated, during the negotiations for the Singer-Gegauf license agreement Singer had not mentioned the possibility of purchasing Gegauf's United States patent application (Op. 39a). After the execution of that license agreement, however, Singer determined that it should acquire, if possible, the Gegauf application.

In August 1956, Gegauf, Jr. visited the United States. While here he called upon Singer representatives at their office in New York City. There the Singer representatives for the first time broached to Gegauf the matter of

Singer's purchasing the Gegauf United States application. At this meeting Singer described to Gegauf the difficulties of enforcing his patent in the United States, including the difficulties arising from the large number of distributors, the size of the United States, the number of judicial circuits, the difficulty of finding out who was selling infringing machines, the impracticality of suing every retailer, and the difficulty of finding and serving the importer of infringing machines (Op. 42a; Stanford, R. 1128-1129). Singer's obvious objective was to impress upon Gegauf that his patent would not be of great value to Gegauf because he, a foreigner, would have great difficulty in overcoming all of these obstacles.

While in the United States Gegauf, Jr. had been surprised and impressed by the number of Japanese machines he had seen at a sewing machine convention (Stanford, R. 1128). In September 1956 Gegauf wrote to Singer favoring the idea of doing something "against Japanese competition" (Op. 43a). Singer, endeavoring to set up a conference at which it could buy Gegauf's application, replied to Gegauf's letter, not, however, necessarily to the specific suggestion in his letter, as the Government wishes this Court to believe, stating that the writer would be in Germany during a specified week and that an arrangement could be reached "equally advantageous to both" (Op. 43a; Gx. 34, R. 3529; Gx. 36, R. 3532). Replying to a letter is quite a different thing from replying to a specific suggestion in such letter. The former can be done while ignoring the latter. The trial court completely rejected the Government's theory that there was any agreement, community of interest or unity of purpose, which of course included rejection of the

Government's contention as to the meaning and significance of those letters, which it fully argued before the trial court (R. 258-259, 961-963).

A conference followed, which the Government does not even mention. It took place September 23, 1956 at Landau, Germany. At that conference Gegauf requested $1,000,000 and refused to budge below a figure of $250,000 for his application. Singer was not willing to pay any such amount and terminated the negotiations (Op. 43a).

Not until September 12, 1957, a year later, did Singer again approach Gegauf, by letter of that date, in the hope of buying Gegauf's United States application (Op. 43a-44a; Gx. 44, R. 3545-3546). In the Government's presentation of this approach (J. S. 8), it is placed in such juxtaposition to the Government's discussion of the September 1956 communications, one year earlier, that one would be led to believe that they were practically concurrent. The Government, as above stated, at the same time, omits any reference to the above mentioned September 1956 conference. With reference to Singer's approach to Gegauf on September 12, 1957, the Government states:

> "In further negotiations Singer pointed out that 'their mutual interests required that something be done to protect themselves from the Japanese infringing machines,[8] and that under the circumstances 'neither was in a position alone effectively to protect its respective patent.'"

The footnote referred to in the above quotation was as follows:

> "[8] The court speaks of 'infringing' machines. However, since at this time and during all but the last 1½ months of the negotiations, no patents had been issued on either Gegauf's or Singer's applications (see n. 4, p. 5, *supra*; n. 9, p. 9, *infra*), there could then be no infringing machines."

Facts

The genesis of Singer's approach in 1957 was that Singer had ascertained that a patent was about to be issued on its Harris re-issue application and believed, in view thereof, that a patent would be issued in the near future to Gegauf on its application. Singer thereupon wrote the letter of September 12, 1957 to Gegauf. It was written under the pretense that Singer sought a conference to discuss enforcement of their respective Gegauf and Harris re-issue patents, "when issued," which Singer indicated would be soon. Singer did not want Gegauf to know at this time that in fact its objective was to try again to purchase Gegauf's application (Op. 43a; Gx. 44, R. 3545-3546; Stanford, R. 1137-1138). In the letter Singer referred to enforcement "when issued" of the two patents "against infringing manufacturers who primarily are manufacturers in other countries . . ." (Gx. 44, R. 3545). It is idle for the Government to contend as it does in its footnote 8, *supra*, that "infringing" manufacturers were not intended because patents had not issued. The letter was written with direct reference to the fact that the two patents were about to be issued and specifically referred to enforcement "when issued." Incidentally, the letter did not refer to "infringing Japanese manufacturers" but referred, as set forth above, to "infringing manufacturers who primarily are manufacturers in other countries." The letter further stated:

> "I think you will agree with me that neither one of us alone can protect himself most effectively."

and

> ". . . , it may be in our mutual interest to resume conversations while I am abroad on this trip." (Gx. 44, R. 3545)

Thus the quotations set forth in the above quoted sentence from page 8 of the Jurisdictional Statement do not appear in the September 1957 letter. The words "mutual interest" were used with respect to a "mutual interest to resume conversations." The words "that something be done" did not appear in this letter but appeared in a letter written in September of the previous year (Gx. 33, R. 3528). The words "to protect themselves from Japanese infringing machines" has no counterpart in the letter. There is in the letter a reference to a discussion, a year before, of "procedures" that might be followed "to enforce" the Gegauf and the Harris patents, when issued, "against infringing manufacturers" (Gx. 44, R. 3545). Instead of the words "neither was in a position alone effectively to protect its respective patent" (J. S. 8) there was a statement that "neither one of us alone can protect himself most effectively." There of course is a meaningful difference. Singer could protect the Harris patent. The trouble was that, since it would not cover the 401 machine, the Harris patent would not protect Singer (Stanford, R. 1263, 1264, 1267, 1268). Singer realized that for an entirely different reason, that is, inability to enforce his patent, Gegauf would not be able to protect himself. Singer therefore by this statement was again stressing the point to Gegauf that Gegauf in Switzerland could not get effective protection from his patent because he would find it difficult to enforce.

Thus, the sentence quoted above from the text of the Jurisdictional Statement (page 8) gives no indication of the statements actually made or of the underlying facts. In any event, the quotations set forth by the Govern-

ment stand as barren quotations, from which the Government asks this Court to find the state of mind, purpose and intent of Singer and Gegauf, the basic facts which the trial court was engaged in ascertaining during the course of the trial, to be directly contrary to that found by the trial court.

Gegauf clearly understood that the September 12 letter related to a proposed conference to discuss enforcement of two specific patents against infringing products of foreign manufacturers inasmuch as Gegauf replied to the letter stating that he would be happy to meet Singer to discuss "mutual enforcement" of its application and the Harris re-issue application against "infringing products of the foreign manufacturers" (Op. 44a).

Singer went to the conference with a form of agreement, and met with the Gegauf people to discuss an agreement, that would give Singer irrevocable title to and "complete ownership" of the Gegauf application which, as Singer expressed it, freed Singer of the necessity of "dealing any further with Gegauf in connection with this general subject." That was the kind of agreement that Singer sought (Op. 44a). At the conference Singer endeavored to give the impression that the subject was not overly important to Singer. The conference ended with Singer believing that an oral agreement had been made for an outright purchase of the application for $40,000 (Op. 44a-45a).

Within a week a Singer representative was reporting that the $40,000 had risen to $125,000, that Gegauf insisted on the right to license three companies and that Gegauf did not wish to convey the divisional claim, a divisional claim which in fact was not filed until December 2,

1957, more than one month later. Singer directed Kirker, its Swiss patent attorney, "to pass the word" to Gegauf that a refusal to assign the divisional claim would almost surely make the agreement impossible as they all along had been discussing the application including any division, and that either standing alone was weak (Op. 45a). The Government's statement on page 8 that Singer insisted on obtaining the divisional application because Singer "felt" that either standing alone was weak is not correct and is squarely in conflict with detailed findings of the trial court as to Singer's reasons for obtaining the divisional application (Op. 55a). Singer was bargaining. It had a reason for acquiring the divisional application, wholly unrelated to any desire to enforce the divisional application, strong or weak, which it did not want Gegauf to know (Op. 55a). The facts are amply covered in the opinion of the trial court (Op. 55a). The Government is asking this Court to substitute the Government's contention as to the meaning and significance of a statement made by Singer, for the trial court's findings of the underlying facts, which completely dispose of the validity of the Government's contention.

A meeting was held between Kirker and Gegauf. The Government's "communicated unity of purpose" theory is based almost entirely on a translated hearsay version of a statement made by Gegauf at this meeting. (The Government's present interpretation of this version, as will be shown, is contrary to the Stipulation of Facts.) With respect to the meeting, Kirker reported that, from the beginning of his interview with Gegauf, Gegauf's position as regards the contemplated agreement with Singer had been considerably altered since a month before

and that it had "considerably hardened" and Kirker set forth numerous increased demands made by Gegauf (Op. 47a-48a; Gx. 56, R. 3567-3570). In his letter Kirker said:

> "Mr. Gegauf explained first that he has no objection against the idea of making an agreement with Singer, in order to stop as far as possible Japanese competitors on the U. S. market but he added that such an agreement might be reached under certain conditions only, which he pointed out as follows: * * *" (Gx. 56, R. 3586).

Gegauf's statement, in whatever form it may have been made, the form in which it appears having come through a translation from German to English by a Swiss citizen, was unilaterally made. Moreover, in the form in which it appears it both is consistent with being, and obviously is, an expression of a bargainer making use of Singer's expressed desire to obtain his patent. In so stating Gegauf was not recognizing or acknowledging any existing or potential agreement or arrangement between Singer and Gegauf relating to the enforcement of a patent. Gegauf's point and purpose were to set forth plainly and forcibly the fact that if he was going to give Singer the power which he conceived Singer wanted, it would have to be done on Gegauf's terms.

The Government earlier had no doubt that Gegauf in fact conveyed that message to Kirker. In Paragraph 79 of the Stipulation of Facts executed by the parties the following is set forth with respect to Gegauf's interview with Kirker:

> "Gegauf explained that while he had no objection to making an assignment of his application by means of which Singer could stop as far as possible Jap-

anese competitors in the United States market, he would do so only upon the conditions which he set forth • • •" (R. 2407-2408).

Paragraph 79 is a stipulation both as to what took place at the Gegauf-Kirker interview and as to what Kirker reported Gegauf had said. It covers both the statement made by Gegauf and the report made by Kirker.

That Gegauf considered that he had no agreement or understanding with Singer and was merely giving to Singer "the possibility to stop" Japanese infringing machines and that he conceived his interests to be different from those of Singer, is clear from his statement in the conference that by giving Singer "the possibility to stop" Japanese infringing machines in the United States, there was a serious drawback for Gegauf in Europe (Gx. 56, R. 3569).

Gegauf's statement has none of the implications now urged by the Government, contrary to its Stipulation of Facts, and the trial court so found.

Upon receiving advice from Kirker as to his interview with Gegauf, Singer decided that Stanford should go to Europe and attempt to conclude the agreement (Stipulation of Facts, Par. 80, R. 2408). A conference with Gegauf was arranged and held on December 4, 1957. After prolonged negotiations (Op. 49a-51a) the Singer-Gegauf assignment agreement, covering both United States applications, and a short form assignment, covering the original application, were executed on December 5, 1957.

The trial court found that these writings were the entire agreement of the parties and that, with the exception of specific limitations contained in the assignment agreement, no agreement was made or understanding

reached by the parties with respect to the licensing, enforcing or use of their patents (Op. 52a).

Actions and proceedings brought by Singer have been directed to the stopping of the sale of machines infringing Gegauf Patent No. 1.

Soon after Gegauf Patent No. 1 was issued, Singer filed two infringement actions against Brother International (Op. 74a), the largest distributor of Japanese sewing machines in the United States, and a subsidiary and sole distributor for Nippon, one of the largest Japanese manufacturers in Japan (Stipulation of Facts, Par. 98, R. 2419). More important, Nippon was the manufacturer of, and Brother was distributor in the United States of, the largest number of machines infringing Gegauf Patent No. 1 (Dx. S-26, R. 2586). Both actions were with respect to the sale of sewing machines infringing Gegauf Patent No. 1 (Op. 74a; Stipulation of Facts, Par. 128, R. 2425-2426). These suits are still pending (Op. 74a; application for stay made by the defendant, Brother, Dx. 124, R. 5499-5509).

In an attempt to obtain a quick judicial determination of the validity of Gegauf Patent No. 1 (Dx. 43, R. 5262; Dx. 44, R. 5263-5264; Dx. 45, R. 5267) Singer brought two additional infringement actions in the United States District Courts in South Carolina against sewing machine retailers (Op. 74a; Stipulation of Facts, Par. 82, R. 2411-2412). Both actions were with respect to the sale of sewing machines infringing Gegauf Patent No. 1 (Op. 74a; Stipulation of Facts, Par. 128, R. 2425-2426). Upon failure of the distributor of the infringing machines to

defend, the actions terminated in consent judgments (Op. 74a; Dx. 43, R. 5262; Dx. 44, R. 5263-5264; Dx. 45, R. 5267).

In January, 1959 Singer instituted a proceeding before the United States Tariff Commission under Section 1337 of Title 19 of the United States Code for the purpose of excluding from the United States all sewing machines infringing Gegauf Patent No. 1. The proceeding related solely to Gegauf Patent No. 1 and machines infringing that patent (Op. 69a-70a). The trial court found that the Tariff Commission proceedings were brought by Singer in a bona fide attempt to obtain protection for its "401" machine by an order excluding *all* unlicensed machines which infringed on Gegauf Patent No. 1 (Op. 73a).

Without exception, each of the infringement actions brought by Singer and the Tariff Commission proceeding were brought with respect to sewing machines that infringed Gegauf Patent No. 1. When such machines also infringed the Harris re-issue patent or the Johnson patent, infringement of such patent was incorporated in the complaint. Except in conjunction with an attempt by Singer to enforce Gegauf Patent No. 1, Singer has not brought any action, commenced any proceeding, or made any attempt to enforce the Harris re-issue patent or the Johnson patent (Stipulation of Facts, Par. 84, R. 2412-2413); and Singer has not at any time brought any action or commenced any proceeding or made any attempt to enforce Gegauf Patent No. 2 or the Perla patent by suit, notice or threat of suit (Stipulation of Facts, Par. 85, R. 2413). Thus, Singer's actions at all times since the issuance of the Gegauf patents have been directed to an attempt to stop the sale in the United States of machines which infringed Gegauf Patent No. 1.

APPENDIX B.

Colloquies Between Government Counsel and the Trial Court in which Government Counsel Stated that the Alleged Conspiracy Related Solely to the Exclusion of Japanese Machines and that the Exclusion of European Importations was Not Part of Such Conspiracy.

MR. ELKINS: * * * We do charge, first and foremost, a conspiracy between Singer and Gegauf, the principal term of which was that Gegauf would assign his United States patent applications to Singer, with the understanding that Singer would use such applications or rather the patents resulting therefrom alone or in conjunction with patents owned or to be owned by Singer in order to exclude competition from persons dealing in the Japanese-made machines.

We described the conspiracy in those terms not because it suits our purpose for any reason but because the evidentiary material is such that it appears that that actually was the substance of the conspiracy.

It appears that the exclusion of Japanese competition was the common ground on which Singer and Gegauf met, and various exhibits have indicated that Gegauf was not interested, at least principally, in having its patents used as against Europeans.

Singer, however, had its own ideas in relation to the European manufacturers. However, as we say, Gegauf did not have European manufacturers on his mind and we are dealing here, of course, with a meeting of the minds on a common objective.

THE COURT: When you say that Gegauf did not have European manufacturers on its mind, do you intend to state that it was no part of the conspiracy that these patents should not be asserted against European importations?

Colloquies

MR. ELKINS: I believe I can answer that, your Honor, directly when I saw that the European importations—

THE COURT: One simple word would answer that; either yes or no.

MR. ELKINS: Well, there is a double negative in that question, your Honor, which is giving me some difficulty.

The European importations into the United States were not a part of the conspiracy. The conspiracy—

THE COURT: So that the conspiracy embraced only the securing of an assignment of the Gegauf No. 1 patent, so that it, coupled with the other patents that Singer owned or had acquired, could be asserted solely and exclusively against Japanese importations which they alleged infringed?

MR. ELKINS: First, it also included as well as Gegauf 1, Gegauf 2, and stating it positively—and I do not think I am changing the question at all—the conspiracy related solely to the exclusion of the Japanese machines. • • • (R. 953-955)

THE COURT: • • • It is the Government's contention that the purpose of all of this conspiracy, and the only thing that there was a meeting of the minds upon, was that these patents should be vested in Singer by assignment so that Japanese importations could be excluded from the United States.

MR. ELKINS: Well, that the patents of Gegauf would be joined with those of Singer, pooled or grouped with those of Singer, for that purpose.

THE COURT: To keep Japanese importations out of the United States.

MR. ELKINS: That's right. To the extent possible by these patents, yes, your Honor.

Colloquies

THE COURT: You don't charge that there was any agreement by Singer to keep out European importations, do you?

MR. ELKINS: That is true, we do not. (R. 988-989)

MR. ELKINS: * * * The Singer license to Sears Roebuck related to a machine made in Germany. We say that the conspiracy between Singer and Gegauf related to Japanese competitors.

THE COURT: But, when Gegauf heard that Singer had done this, had given a license to Sears Roebuck, they screamed to high heaven. They said they screamed because Sears Roebuck might have been their potential customer, but maybe they also screamed because they foresaw the amount of royalties which Singer was about to collect from Sears Roebuck and they had not been declared in on it.

MR. ELKINS: There was nothing that Singer did with Sears, Roebuck which was contrary to the conspiracy between Singer and Gegauf. That conspiracy related to Japanese competition.

THE COURT: Well, there was nothing that Singer did with Sears Roebuck that tended to further this alleged conspiracy either, was there?

MR. ELKINS: That is true. It just wasn't a part of the conspiracy.

THE COURT: So Sears Roebuck has really nothing to do with this case, has it?

MR. ELKINS: Sears Roebuck and the reasons for our citing the documents and the material that we have shows,

indeed, as other material shows—and we are here interested in the accuracy of our contentions—that European manufacturers were not a subject of the conspiracy between Singer and Gegauf. We submit that, if Singer granted a license to a Japanese manufacturer, it would have violated its agreement with Gegauf. We submit that Singer was free to grant a license to Sears Roebuck as long as the machines were coming in from Europe without violating that agreement, and the particular purpose of showing the Sears license and the amount of money that was obtained from it is to show that Singer had not taken the position with Gegauf merely that it would use the patent here in the United States to enforce it for the benefit of itself and Gegauf and Vigorelli. (R. 1000-1002)

MR. ELKINS: Yes. Also, your Honor, the government contends that the attempt to monopolize is not confined to the exclusion solely of Japanese-made machines. The Japanese-made machines, as we tried to point out, was the subject of the alleged conspiracy as between Singer and Gegauf. However, in relation to the attempt to monopolize, it is the government's position that Singer, in acquiring these two patents, did so in order to exclude all imports from the United States of machines having the mechanism involved in the subject matter of those patents, and that it did so to prohibit anybody else from manufacturing such machines in the United States. So that the attempt to monopolize goes out beyond the terms or the substance of the conspiracy.

Colloquies

Gegauf, for example, had no interest, apparently so far as the terms of the conspiracy are concerned, in whether or not Europeans came into the country.

Apparently he, as far as the substance of the conspiracy was concerned, had no interest in whether or not any other United States competitor or potential competitor might be able to manufacture those machines in the United States. However, in relation to the attempt, Singer did. (R. 1648-1649)

APPENDIX C.

Paragraphs 210 to 214, Inclusive, of Defendant's Proposed Findings of Fact and References and Citations Therein Contained (R. 5920-5926).*

Various types of multiple-cam mechanisms which do not infringe Gegauf Patent No. 1 and examples of machines incorporating such non-infringing multiple-cam mechanisms

210. Gegauf patent No. 2,832,302 does not cover a machine-carried multiple-cam zigzag machine, if, to effect a partial or a complete traverse of such machine's series of rotary cams, whereby its single cam-engaging head can be manually engaged with one cam after the other in any desired sequence, the series of rotary cams and the single cam-engaging head are relatively shiftable *radially* rather than lengthwise of the common axis. Examples of such a machine-carried multiple-cam zigzag machine are the Feather Universal TViewer Model FSZ120, the Kyokuto Modern Model No. 116, the Kyokuto Vogue Stitch Model D and the Kyokuto Alden's Cam 3-in-1.

Each of the machines mentioned in the preceding paragraph incorporates therein a series of rotary cams which are concentrically arranged about a common axis and a single cam follower which must be shifted back and forth radially rather than lengthwise of the common cam axis in order sequentially to engage the various cams. (S.F. 94)

The Feather Universal TViewer Model FSZ120, Defendant's Exhibit 113, and the Alden's Cam 3-in-1, Government's Exhibit 207, are machines of the type above set forth.

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* S.F. refers to the Stipulation of Facts (R. 2364-2441). T. refers to the transcript of the trial proceedings. (Record page numbers are the same as the indicated transcript page numbers.)

Multiple Cam Mechanisms which do not infringe Gegauf Patent No. 1.

(T. 574; Billings, T. 2124, 2153-2155)

The pattern control mechanism of the Feather Universal TViewer machine, Defendant's Exhibit 113, includes a unitary disc having six circular cam surfaces arranged concentrically on one face thereof with the disc being disposed within the machine so as to be rotatable about a vertical axis which coincides with the common cam axis. Cooperating with this disc is a single cam follower adapted to be shifted radially of the common cam axis in order sequentially to engage the various concentrically arranged cam surfaces. The cam disc which is made of a plastic material is removably secured within the machine and can be replaced by other cam discs which are adapted to produce different sewing patterns. Two additional cam discs are provided with the machine.

(Billings, T. 2124, 2149, 2235-2236)

The pattern control mechanism of the Alden's Cam 3-in-1 machine, Government's Exhibit 207, is essentially like that of the Feather Universal TViewer machine, Defendant's Exhibit 113, except that the cam discs of the former has fourteen concentric cam surfaces formed on the top face of the disc while the cam disc of the latter has six concentric cam surfaces formed on the top face of the disc.

(Billings, T. 2217, 2154-2156)

211. Gegauf patent No. 2,832,302 does not cover a machine-carried multiple-cam zigzag machine, if, to effect a partial or a complete traverse of such machine's series of rotary cams whereby its single cam-engaging head can be manually engaged with one cam after the other

Multiple Cam Mechanisms which do not infringe Gegauf Patent No. 1

in any desired sequence, the series of rotary cams and the single cam-engaging head are relatively shiftable through rotation of the series of cams about their common axis rather than being relatively shiftable lengthwise of the common axis. Examples of such a machine-carried multiple-cam zigzag machine are Sankyo Seiki's Consolidated Sewmor Model 770 (New Design), Consolidated Viscount 1959 Model 740, Consolidated Belair 990 (New Design), and Consolidated Vogue Stitch Model 116.

Each of the machines mentioned in the preceding paragraph incorporates therein a single cam follower and a series of cams which are formed as a series of stave-like surfaces about a barrel-shaped cam carrier mounted to turn about its longitudinal axis. The barrel-shaped cam carrier must be manually rotated about its longitudinal axis in order sequentially to engage the single cam follower with the various cams.

(S.F. 95; T. 561-567, 583-584)

The Sankyo Seiki Consolidated Sewmor Model 770 (New Design), Defendant's Exhibit 112, and the Consolidated Vogue Stitch Model 116, Defendant's Exhibit 115, are machines of the type above set forth.

(T. 561-567, 568-573; Billings, T. 2112, 2123)

The Sankyo Seiki Consolidated Sewmor Model 770 (Old Design) machine, Defendant's Exhibit 111, infringes defendant's Geganf No. 1 patent and differs from the Sankyo Seiki Consolidated Sewmor Model 770 (New Design) machine, Defendant's Exhibit 112, only as regards their respective multiple-cam mechanisms.

(T. 559-567; T. 569-570)

Multiple Cam Mechanisms which do not infringe Gegauf Patent No. 1

The ornamental stitch work products of these two machines, Defendant's Exhibits 111 and 112, are essentially the same.

(T. 566-567; Hutton, T. 1311-1312)

The Sankyo Seiki Consolidated Sewmor Model 770 (New Design) machine, Defendant's Exhibit 112, is capable of producing at least fourteen different primary stitch patterns since there are fourteen cam surfaces provided about the barrel-shaped carrier.

(Billings, T. 2112)

212. Gegauf patent No. 2,832,302 does not cover a machine-carried multiple-cam zigzag machine, if such machine is not provided with a manually operable member for withdrawing the cam-engaging head from and radially of a selected cam surface. An example of such a machine-carried multiple-cam zigzag machine is the Borletti New Home Model 1102.

The machine mentioned in the preceding paragraph incorporates therein a series of rotary cams mounted about a common axis and a single cam follower with the series of cams and the cam follower being relatively shiftable lengthwise of the common cam axis under spring pressure to a preselected position without withdrawing the cam follower radially of a cam surface.

(S.F. 96; T. 581-582)

The Borletti New Home Model 1102, Defendant's Exhibit 114, is a machine of the type above set forth.

(T. 581-582; Billings, T. 2101)

213. Gegauf patent No. 2,832,302 does not cover a machine-carried multiple-cam zigzag machine, if such

Multiple Cam Mechanisms which do not infringe Gegauf Patent No. 1

machine's series of cams is provided with a series of cam-engaging heads of which each cam-engaging head is constrained to engage a respective one of the cams of the series of cams rather than with a single cam-engaging head relatively shiftable lengthwise of the common cam axis. Examples of such a machine-carried multiple-cam zigzag machine are the Turissa Novomatic, the Bell-Messerschmitt Models 502 and 603N, the Pfaff Models 260 and 360 (formerly Models 230 and 332), the Gritzner-Kayser White Automatic Model 666, and the Fukoku Vogue Stitch Model 88.

Each of the machines mentioned in the preceding paragraph incorporates therein a series of rotary cams and a series of cam-engaging heads with each cam-engaging head being constrained to engage only one cam of the series of cams and with means whereby the series of cams and the series of cam-engaging heads may be relatively shifted so that the cams may be sequentially engaged one at a time with a respective one of such cam-engaging heads. (S.F. 97)

The Messerschmitt, Defendant's Exhibit 118, the Singer 319, Defendant's Exhibit 110, the Gritzner-Kayser White Automatic Model 666, Defendant's Exhibit 193, and the Sanwa, Government's Exhibit 204, are machines of the type above set forth.

(S.F. 116; Stanford, T. 1209)

214. With respect to the said Sankyo Seiki Consolidated Sewmor Model 770 (New Design), Defendant's Exhibit 112, Feather Universal TViewer Model FSZ120, Defendant's Exhibit 113, Borletti New Home Model 1102,

Multiple Cam Mechanisms which do not infringe Gegauf Patent No. 1

Defendant's Exhibit 114, Consolidated Vogue Stitch Model 116, Defendant's Exhibit 115, and the Alden's Cam 3-in-1, Government's Exhibit 207:

(a) Such machine comprises a household sewing machine which, in addition to straight stitches, produces without artistry on the part of the operator, various ornamental and functional zigzag stitch patterns the preselection of which must be made by the user through a device such as a dial, handle or knob, located on the exterior of the machine, which effects a relative shifting of cam tracking means and a group of machine-carried cams, each having cam configurations different from the other cams.

(S.F. 8-C, 94, 95, 96)

(b) Such machine does not infringe any of the defendant's patents here involved, namely the following U. S. patents:

2,832,302	Gegauf
Re. 24,370	Harris
2,862,468	Johnson
2,877,726	Gegauf
2,810,360	Perla

(S.F. 91, 94, 95, 96, 115, 116, 128, 129; T. 564, 566-567, 574-575, 581-582, 583-584; Billings, T. 2100-2103, 2124, 2153, 2155; S.F. Exs. 18, 22, 23)

(c) Such machine incorporates a machine-carried multiple-cam mechanism which is designed in a manner such that, assuming the same set of circumstances, its manufacture and assembly should be less costly than the manu-

Multiple Cam Mechanisms which do not infringe Gegauf Patent No. 1

facture and assembly of a machine-carried multiple-cam mechanism infringing Gegauf Patent No. 1.

(Billings, T. 2112-2115, 2119-2121, 2123-2124, 2156, 2190-2202, 2205-2207, 2212-2215, 2218-2219; Herbst, T. 2265-2271, 2226-2227, 2307-2308, 2275-2285, 2291-2294, 2299, 2325; Def. Exs. 106B, 200, 201, 202)

(d) Such machine incorporates a machine-carried multiple-cam mechanism which is designed in a manner such that, assuming materials and workmanship of equal quality, the useful life of such mechanism from the standpoint of wear and breakage should be no less than that of a machine-carried multiple-cam mechanism infringing Gegauf Patent No. 1.

(Billings, T. 2140, 2156-2158, 2186, 2232-2235)

(e) Such machine is capable of producing various ornamental and functional zigzag stitch patterns the preselection of which is no more difficult for the operator to effect through the dial, handle or knob provided on such machine than is such preselection with the dial, handle or knob on a machine infringing Gegauf Patent No. 1.

(Billings, T. 2197-2198)

(f) Such machine is capable of producing various ornamental and functional zigzag stitch patterns which, from an artistic and functional standpoint, are comparable to those patterns produced by machines incorporating a machine-carried multiple cam mechanism infringing Gegauf Patent No. 1.

(T. 566; Curreri, T. 2321-2322)

Multiple Cam Mechanisms which do not infringe Gegauf Patent No. 1

(g) Such machine incorporates a machine-carried multiple cam mechanism which is designed and constructed in a manner such that its mechanical efficiency as a medium for controlling the lateral movements of the needle of such machine is not less than that of machine-carried multiple cam mechanisms incorporated in machines infringing Gegauf Patent No. 1.

(Billings, T. 2237-2240, 2243-2245; Curreri, T. 2308-2315, 2327)

APPENDIX D.

Singer-Gegauf License Agreement, Government's Exhibit 26 (R. 3509-3514).

THE SINGER MANUFACTURING COMPANY — DOCUMENTS — D.E. 2028-1

AGREEMENT (Patent) between Fritz Gegauf Aktiengesellschaft, Bernina Nahmaschinenfabrik, Switzerland and The Singer Manufacturing Company of New Jersey

DATED April 14, 1956.

AGREEMENT

THE SINGER MANUFACTURING COMPANY (hereinafter called "SINGER"), a Corporation organized and existing under the laws of the State of New Jersey, United States of America, is the sole owner of Harris U.S.A. Patent No. 2,693,778, filed on the 9th of June, 1952, and of corresponding reissue patent application No. 516,059 as well as the following corresponding Harris patents and patent applications:

	No.	dated:	filed:
British Patent	730,436	May 21, 1953	May 21, 1953
Belgian Patent	520,285	May 28, 1953	May 28, 1953
Canadian Patent	514,053	June 28, 1955	June 6, 1952
French Patent	1,083,582	June 5, 1953	June 5, 1953
Italian Patent	509,535	June 5, 1953	June 5, 1953
Canadian Appl.	688,268		June 22, 1955
German Appl.	H 16,599		June 3, 1953
Japanese Appl.	10,103		June 5, 1953
Swedish Appl.	5,211		June 5, 1953

FRITZ GEGAUF AKTIENGESELLSCHAFT, Bernina Nähmaschinenfabrik, in Steckborn (hereinafter called "GEGAUF"), a Corporation organized and existing under the laws of Switzerland,

is the sole owner of Swiss Patent No. 310,788, filed on the 31st of May, 1952, as well as the following patents and patent applications:

Italian Patent No. 501'172
German Gebrauchsmuster Registration No. 1,707,338
F.G. U.S.A. Patent application No. 358,977 } F.G.
M.L.W. German Patent application No. G 11,654 } M.L.W.

SINGER and GEGAUF realize that interference proceedings are about to be opened in the U.S.A. between the said Harris reissue application and one or more patent applications of GEGAUF corresponding wholly or partly to its above mentioned patents and patent applications.

In view of the foregoing, SINGER and GEGAUF have entered into the following agreement.

1) SINGER and GEGAUF each undertakes, not to do anything, either directly or indirectly and in any country, the result of which might restrict the scope of the claims of the other party relating to the subject matter of the above mentioned patents and patent applications.

SINGER and GEGAUF each undertakes, in accordance with the laws and regulations of the Patent Office concerned, to facilitate the allowance in any country of claims as broad as possible, as regards the subject matter of the patents and patent applications referred to above.

2) SINGER undertakes not to attack GEGAUF, either directly or indirectly, in any country:

a) on the basis of any of its above mentioned patents or patent applications

b) for the present construction of the BERNINA Sewing Machine as shown on the photograph attached to the present agreement and signed on the back by both parties.

F.G.
M.L.W.

3) GEGAUF undertakes not to attack SINGER, either directly or indirectly, in any country, on the basis of any of its above mentioned patents or patent applications.

4) SINGER undertakes not to manufacture or sell a construction which would be a slavish copy either of the present construction of the BERNINA Sewing Machine — taken as a whole — which is shown on the attached photograph, or of the feeler and multiple cams mechanism the said BERNINA construction includes.

5) SINGER undertakes to give to GEGAUF, on request of the latter, the amical assistance of its patent attorneys for the defense of any of the above mentioned GEGAUF patents or patent applications against an action in cancellation.

6) All agreements already concluded by either party and concerning or having a connection with any of the above mentioned patents or patent applications must be communicated to the other party for approval before signature of the present agreement.

7) SINGER, as designated in this agreement, shall be understood as including The Singer Manufacturing Company, Singer Sewing Machine Company, their subsidiary, affiliated and associated companies and customers throughout the world.

GEGAUF, as designated in this agreement, shall be understood as including Fritz Gegauf A.G., Bernina-Nähmaschinenfabrik, its subsidiary, affiliated and associated companies and customers throughout the world

F.G.
M.L.W.

IN WITNESS WHEREOF, the parties have executed this agreement in duplicate in Zurich, this 14th day of April, 1956.

THE SINGER MANUFACTURING COMPANY

By M. L. WATERMAN
Vice-President

WITNESS:
G. E. KIRKER

FRITZ GEGAUF A.G., BERNINA-NAEHMASCHINENFABRIK

By F. GEGAUF

WITNESS:
WILLI

[A photograph of the Bernina sewing machine was attached to the foregoing agreement together with a statement identifying such attachment (R. 3513, 3514).]

APPENDIX E.

Defendant's Exhibit 133 for identification (R. 5547), Submitted and Received as an Aid to the Trial

	Singer-Vigorelli License Agreement	Singer-Gegauf License Agreement
License Provisions	VIGORELLI will not bring any infringement action against Singer under the rights derived from patents now issued or to be issued in any country with respect to subject matter disclosed in U.S. patents No. 2.693.778 and in the U.S. patent applications by Johnson, Serial No. 471.766, and by Perla, Serial No. 386.684, and when embodied in sewing machines manufactured and sold by Singer, copies of which are at disposal for inspection by Vigorelli at the Office of Messrs. Barzano and Zanardo in Milan. SINGER will not bring any infringement action against Vigorelli under the rights derived from patents now issued or to be issued in any country with respect to subject matter disclosed in Italian patents No. 497.557 and No. 507.862 and when embodied in sewing machines manufactured and sold by Vigorelli.	GEGAUF Undertakes not to attack SINGER, either directly or indirectly, in any country, on the basis of any of its above-mentioned patents or patent applications. SINGER undertakes not to attack Gegauf, either directly or indirectly, in any country: a) on the basis of any of its above mentioned patents or patent applications b) for the present construction of the Bernina sewing machine, as shown on the photograph attached to the present agreement and signed on the back by both parties SINGER undertakes not to manufacture or sell a construction which would be a slavish copy either of the present construction of the BERNINA Sewing Machine—taken as a whole—which is shown on the attached photograph, or of the feeler and multiple cams mechanism the said BERNINA construction includes
Opposition and Nullity Provisions	Each of the two parties mutually agree not to institute any opposition, nullity or invalidation proceedings in any country against or otherwise to attack each other's above-noted patents or patent applications and immediately to withdraw any such proceedings if it has already been instituted,	SINGER and GEGAUF each undertakes not to do anything, either directly or indirectly and in any country, the result of which might restrict the scope of the claims of the other party relating to the subject matter of the above mentioned patents and patent applications.
Interference and Conflict Provisions	provided, however, that if such two parties patents and patent applications are or have become involved in a patent office priority-determining proceedings such as a United States interference or a Canadian conflict proceeding, then both parties will work together in order to settle such a proceeding in accordance with the laws and regulations of the patent office concerned and in the spirit of this agreement.	SINGER and GEGAUF each undertakes, in accordance with the laws and regulations of the Patent Office concerned, to facilitate the allowance in any country of claims as broad as possible, as regards the subject matter of the patents and patent applications referred to above.

APPENDIX E.

Defendant's Exhibit 133 for identification (R. 5547), Submitted and Received as an Aid to the Trial Court (R. 921-924).

Singer-Vigorelli License Agreement	Singer-Gegauf License Agreement	Singer-Messerschmitt License Agreement
VIGORELLI will not bring any infringement action against Singer under the rights derived from patents now issued or to be issued in any country with respect to subject matter disclosed in U.S. patents No. 2.693.778 and in the U.S. patent applications by Johnson, Serial No. 471.766, and by Perla, Serial No. 386.684, and when embodied in sewing machines manufactured and sold by Singer, copies of which are at disposal for inspection by Vigorelli at the Office of Messrs. Barzano and Zanardo in Milan. SINGER will not bring any infringement action against Vigorelli under the rights derived from patents now issued or to be issued in any country with respect to subject matter disclosed in Italian patents No. 497.557 and No. 507.862 and when embodied in sewing machines manufactured and sold by Vigorelli.	GEGAUF Undertakes not to attack SINGER, either directly or indirectly, in any country, on the basis of any of its above-mentioned patents or patent applications. SINGER undertakes not to attack Gegauf, either directly or indirectly, in any country: a) on the basis of any of its above mentioned patents or patent applications b) for the present construction of the Bernina sewing machine as shown on the photograph attached to the present agreement and signed on the back by both parties SINGER undertakes not to manufacture or sell a construction which would be a slavish copy either of the present construction of the BERNINA Sewing Machine—taken as a whole—which is shown on the attached photograph, or of the feeler and multiple cams mechanism the said BERNINA construction includes	MESSERSCHMITT Will not bring any infringement action against SINGER under the rights derived from patents now issued or to be issued in any country with respect to subject matter disclosed in Singer's German patent applications No. S.46,453 VII/52a as filed on 23rd November, 1955, and shown in the annexed drawing (Figures 1-62) and No. S.46,580 VII/52a as filed on 2nd December, 1955, and shown in the annexed drawings (Figures 1-13) and when embodied in sewing machines manufactured and sold by Singer. SINGER will not bring any infringement action against Messerschmitt under the rights derived from patents now issued or to be issued in any country with respect to subject matter disclosed in the annexed drawings K1. 52 KE of 14.1.55, K1. 53 of 10.XII.54 and K1. 54 KE of 6.VI.55, and when embodied in sewing machines manufactured and sold by Messerschmitt.
Each of the two parties mutually agree not to institute any opposition, nullity or invalidation proceedings in any country against or otherwise to attack each other's above-noted patents or patent applications and immediately to withdraw any such proceedings if it has already been instituted,	SINGER and GEGAUF each undertakes not to do anything, either directly or indirectly and in any country, the result of which might restrict the scope of the claims of the other party relating to the subject matter of the above mentioned patents and patent applications.	SINGER and MESSERSCHMITT each agrees not to institute in any country any opposition, nullity or invalidation proceedings against or otherwise to attack in any country the other's patents or patent applications corresponding to Messerschmitt's constructions as illustrated in the drawings indicated in paragraph 1 and to Singer's German applications indicated in paragraph 2, and to immediately withdraw any such proceeding if it has already been instituted
provided, however, that if such two parties patents and patent applications are or have become involved in a patent office priority-determining proceedings such as a United States interference or a Canadian conflict proceeding, then both parties will work together in order to settle such a proceeding in accordance with the laws and regulations of the patent office concerned and in the spirit of this agreement.	SINGER and GEGAUF each undertakes, in accordance with the laws and regulations of the Patent Office concerned, to facilitate the allowance in any country of claims as broad as possible, as regards the subject matter of the patents and patent applications referred to above.	provided, however, that if such patents and patent applications are or have become involved in a patent office priority-determining proceedings such as a United States interference or a Canadian conflict proceeding, then both parties will work together in order to settle such proceeding in accordance with the laws and regulations of the patent office concerned and in the spirit of this agreement.